

AMENDED IN ASSEMBLY FEBRUARY 24, 2004

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE APRIL 28, 2003

SENATE BILL

No. 749

**Introduced by Senator Escutia
(Coauthors: Senators Soto and Speier)**

February 21, 2003

~~An act to add Chapter 31 (commencing with Section 22942) to Division 8 of the Business and Professions Code, relating to hospital group purchasing organizations. An act to add Section 70379 to the Government Code, relating to court facilities, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 749, as amended, Escutia. ~~Hospital: group purchasing organizations~~ *Court Facilities Architecture Revolving Fund.*

Existing law establishes the State Court Facilities Construction Fund for the construction and improvement of court facilities, as specified.

This bill would establish the Court Facilities Architecture Revolving Fund, a continuously appropriated fund, to be funded by the transfer of moneys from both state funds and nonstate sources available for the construction, alteration, repair, and improvement of trial and appellate court buildings, as authorized by the Administrative Office of the Courts, and approved by the Department of Finance, as specified. Moneys transferred or deposited in the fund would be available for expenditure by the Administrative Office of the Courts, for the purposes

for which they were appropriated or made available, without regard to fiscal years.

~~Existing law does not regulate group purchasing organizations purchasing medical supplies used by hospitals.~~

~~This bill would require a hospital group purchasing organization doing business in this state to adhere to and implement certain code of conduct principles.~~

Vote: majority ²/₃. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 SECTION 1. Section 70379 is added to the Government Code,
3 to read:
4 70379. (a) The Court Facilities Architecture Revolving Fund
5 is hereby established in the State Treasury, and, notwithstanding
6 Section 13340, the fund is continuously appropriated, without
7 regard to fiscal years.
8 (1) With the approval of the Department of Finance, and except
9 as otherwise specified in this section, there shall be transferred to,
10 or deposited in, the fund all money appropriated, contributed, or
11 made available from any source, including sources other than state
12 appropriations, for the purposes described in paragraph (2).
13 (2) Moneys transferred to, or deposited in, the fund shall be
14 those administered by the Administrative Office of the Courts
15 under subdivision (b) of Section 70374 for the construction,
16 alteration, repair, and improvement of trial and appellate court
17 buildings, including, but not limited to, services, new construction,
18 major construction, minor construction, maintenance,
19 improvements, and equipment, and other building and
20 improvement projects.
21 (3) In addition to the approval of the Department of Finance,
22 the transfer or deposit of moneys into the fund shall be authorized
23 by the Administrative Office of the Courts, both with regard to
24 funds appropriated for the purposes specified in paragraph (2) or,
25 as to funds from sources other than state appropriations, subject
26 to any written agreement between the contributor or contributors
27 of funds and the Administrative Office of the Courts.



1 (b) Money from state sources transferred to, or deposited in, the
2 fund for construction, services, equipment, repair, or improvement
3 shall be an amount necessary based on the actual, known, or firm
4 fixed price, upon approval of the Department of Finance.

5 Any amount available in the state appropriation that is in excess
6 of the amount necessary based upon final actual costs of the
7 completed contract shall be transferred immediately to the credit
8 of the fund from which the appropriation was made.

9 (c) Money transferred or deposited in the fund pursuant to
10 subdivision (a) shall be available for expenditure by the
11 Administrative Office of the Courts for the purposes for which
12 appropriated, contributed, or made available, without regard to
13 fiscal years.

14 following:

15 ~~(a) Hospital spending in California is taking on a new~~
16 ~~importance, especially with rising hospital costs and inability of~~
17 ~~hospitals to afford the nurses and other medical personnel they~~
18 ~~need.~~

19 ~~(b) Most health care costs are paid indirectly by taxpayers~~
20 ~~through programs like Medi-Cal and by private insurers.~~

21 ~~(c) Many hospitals purchase medical supplies through group~~
22 ~~purchasing organizations (GPOs), which use the hospitals'~~
23 ~~collective purchasing power to obtain the best prices for those~~
24 ~~supplies.~~

25 ~~(d) Reform is necessary to ensure that group purchasing~~
26 ~~organizations meet their own ethical standards and promote, rather~~
27 ~~than hinder, innovation in the medical device field.~~

28 ~~SEC. 2. Chapter 31 (commencing with Section 22942) is~~
29 ~~added to Division 8 of the Business and Professions Code, to read:~~

30
31 ~~CHAPTER 31. HOSPITAL GROUP PURCHASING ORGANIZATIONS~~
32

33 ~~22942. For the purposes of this chapter, the following terms~~
34 ~~have the following meanings:~~

35 ~~(a) "Group purchasing organization" is an entity that as all or~~
36 ~~part of its business is authorized by member health care service~~
37 ~~providers to enter into contracts to purchase medical supplies from~~
38 ~~vendors as the agent of the members.~~

1 ~~(b) “Bundling” is the practice of packaging items into a single~~
2 ~~contract and requiring a member to buy the entire package in order~~
3 ~~to obtain the lowest price for the entire package.~~

4 ~~(c) “Clinical preference products or services” means those~~
5 ~~clinical products or services that require substantial training to~~
6 ~~learn to use and that have a demonstrable effect on patient care~~
7 ~~outcomes. “Clinical preference products or services” includes~~
8 ~~products or services for which a provider has a particular~~
9 ~~preference based on factors such as the provider’s training and~~
10 ~~experience, the performance or utility of those products or services~~
11 ~~in a clinical setting, and patient clinical outcomes.~~

12 ~~(d) “Clinical products or services” means products or services~~
13 ~~used by providers directly in the provision of health care services~~
14 ~~to patients.~~

15 ~~(e) “Corporate interest” means equity or debt securities,~~
16 ~~options, debt instruments including loans, or rights to acquire any~~
17 ~~of these.~~

18 ~~(f) “Member” means a provider of health care services that~~
19 ~~contracts with a group purchasing organization to purchase goods~~
20 ~~or services from vendors.~~

21 ~~(g) “Nominal value” means any item, service, or other thing~~
22 ~~of value, but not including cash or cash equivalents, that does not~~
23 ~~exceed fifty dollars (\$50) per instance or one hundred dollars~~
24 ~~(\$100) in a calendar year. Any item, service, or other thing of value~~
25 ~~of ten dollars (\$10) or less shall not be counted toward the~~
26 ~~one hundred dollar (\$100) annual limit.~~

27 ~~(h) “Vendor” means a manufacturer, distributor, supplier, or~~
28 ~~other entity that sells goods or services to members pursuant to a~~
29 ~~contract with a group purchasing organization.~~

30 ~~22942.1. Each group purchasing organization doing business~~
31 ~~in this state shall adhere to and implement the following code of~~
32 ~~conduct principles:~~

33 ~~(a) Management employees, other employees who are in a~~
34 ~~position to influence contracting decisions by the group~~
35 ~~purchasing organization, and nonemployee officers, directors, and~~
36 ~~advisory board members may not accept any gifts, entertainment,~~
37 ~~favours, honoraria, or personal services payments from any vendor~~
38 ~~with whom the group purchasing organization contracts. This~~
39 ~~subdivision shall not apply to items or amounts of nominal value.~~

1 ~~(b) A group purchasing organization or any of its employees,~~
2 ~~officers, directors, and advisory board members described in~~
3 ~~subdivision (a) may not have any corporate equity interest in any~~
4 ~~of its vendors unless that interest is fully disclosed to the members~~
5 ~~of the group purchasing organization.~~

6 ~~(c) A group purchasing organization that has a corporate~~
7 ~~interest in a vendor may not impose any obligation, commitment,~~
8 ~~or other requirements or restrictions that in any way obligate a~~
9 ~~member to purchase goods or services from that vendor.~~

10 ~~(d) A group purchasing organization shall disclose to its~~
11 ~~members the payments it receives from vendors with respect to~~
12 ~~purchases made by or on behalf of the members. The disclosure~~
13 ~~shall distinguish between payments that are related to actual~~
14 ~~purchases as well as payments that are not allocable to actual~~
15 ~~purchases. A group purchasing organization shall provide a~~
16 ~~member an annual statement of all vendor payments received for~~
17 ~~those purchases.~~

18 ~~(e) A group purchasing organization may not do any of the~~
19 ~~following:~~

20 ~~(1) Engage in bundling of clinical preference goods or services.~~

21 ~~(2) Extract fees or any remuneration from any vendor in excess~~
22 ~~of 3 percent of total purchases from the vendor.~~

23 ~~(3) Require its members to purchase goods or services from any~~
24 ~~single vendor, or to purchase from any single vendor in excess of~~
25 ~~90 percent of its total purchases.~~

26 ~~(f) Notwithstanding subdivision (e), a member of a group~~
27 ~~purchasing organization that engages in any of the restricted~~
28 ~~activities described in subdivision (e) may enter into a contract for~~
29 ~~goods or services negotiated by the group purchasing organization~~
30 ~~if the member determines that contract to be cost effective and in~~
31 ~~the best interest of the member.~~